

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

JOHN JOSEPH TATAR,

Plaintiff,

v.

R. GUY COLE, JR., et al.,

Defendants.

CASE NO. 2:21-CV-11512

HON. ROBERT J. JONKER

ORDER ON RECONSIDERATION

Plaintiff John Tatar filed a Motion for Reconsideration of this Court's October 8, 2021, Order and Judgment dismissing the matter for lack of subject matter jurisdiction. Because Mr. Tatar's Motion seeks reconsideration of a Judgment dismissing the case, the Court construes the Motion as a timely filed request to alter or amend the judgment under Rule 59(e).¹ *See Huff v. Metropolitan Life Ins. Co.*, 675 F.2d 119, 122 (6th Cir. 1982). As the Sixth Circuit summarized in *GenCorp, Inc. v. Am. Int'l Underwriters*, 178 F.3d 804, 833-34 (6th Cir. 1999), motions to alter or amend judgment under Rule 59(e) may be granted if there is a clear error of law, newly discovered evidence, an intervening change in controlling law, or to prevent manifest injustice. *See also ACLU v. McCreary Cnty.*, 607 F.3d 439, 450 (6th Cir. 2010). To constitute "newly discovered evidence," the evidence must have been previously unavailable. *See GenCorp*, 178 F.3d at 834; *Javetz v. Bd. of Control, Grand Valley State Univ.*, 903 F. Supp. 1181, 1191 (W.D. Mich. 1995) (and cases cited

¹ Motions under Rule 59(e) must be filed within 28 days, which Mr. Tatar did by filing on the 28th day following entry of the Judgment. This saves the timeliness of his otherwise tardy Motion for Reconsideration under E.D. Mich. LR 7.1(h)(1), 59.1. The standard for reconsideration under E.D. Mich. LR 7.1(h)(3) is at least as high, if not higher, than the general standard under Rule 59(e).

therein); Charles A. Wright et al., 11 Federal Practice and Procedure § 2810.1 at 127-28 (2d ed. 1995).

Mr. Tatar continues to disagree with this Court's view of the matter, to be sure. But he has not identified anything materially new or different in his analysis. The Court adheres to its earlier decision and finds no error or other basis warranting alteration or amendment of the earlier Order and Judgment of dismissal for lack of subject matter jurisdiction.

Accordingly, Mr. Tatar's Motion for Reconsideration is **DENIED**.

Dated: November 23, 2021

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE